

he graduated from the Virginia Military Institute in 1969 and was commissioned a second lieutenant of infantry. In the months following his graduation from Infantry Officers Basic School, Lieutenant Harper earned two of the Army's most cherished qualification badges, airborne wings and a Ranger tab. After a tour with America's famed Honor Guard, the 82d Airborne Division, Colonel Harper was ordered to the Republic of Vietnam where he was assigned to the 1st Battalion (Airmobile), 327th Infantry, setting in motion a career that would bring him many commands and responsibilities.

Among his many assignments over the next two decades, the colonel served as: commander, A Company, 18th Infantry; Executive Officer, 1st Battalion (Mechanized) 36th Infantry at Friedberg, Federal Republic of Germany; and, he commanded the 2d Battalion (Mechanized), 16th Infantry at Fort Riley, KS. In addition to his troop leading time, Colonel Harper attended the Command and General Staff College and the Naval War College; served as a staff officer and Chief of the War Plans Division; and finally, as Director of the Chief of Staff of the Army's personal staff group. In his capacity as General Sullivan's staff director, Colonel Harper helped the Chief of Staff transform the Army from a Cold War, forward deployed force into a power projection force ready to defend the Nation anywhere. Colonel Harper's keen insight, sound judgment, and able intellect have made a lasting contribution to the future of the Army and the continued security of the Nation.

Mr. President, Colonel Harper has been a model soldier throughout his career. He embodies the traits that the military expects of those who choose to serve: integrity; loyalty, selfless service; and, concern for soldiers. He is a man who has served the Nation well and he has our appreciation for his dedication and sacrifices over the past 26 years. I join his friends and colleagues in wishing him good health and great success in the years to come.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will now resume consideration of S. 652, the telecommunications bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 652) to provide for a procompetitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Dorgan modified amendment No. 1264, to require Department of Justice approval for regional Bell operating company entry into long distance services, based on the VIII(c) standard.

(2) Thurmond modified amendment No. 1265 (to amendment No. 1264) to provide for the review by the Attorney General of the United States of the entry of the Bell operating companies into interexchange telecommunications and manufacturing markets.

Subsequently, the amendment was modified further.

(3) Feinstein-Kemphorne amendment No. 1270, to strike the authority of the Federal Communications Commission to preempt State or local regulations that establish barriers to entry for interstate or intrastate telecommunications services.

Mr. PRESSLER. Mr. President, I believe the Senator from Mississippi is waiting to speak, and I have some business to take care of, which we are going to make some corrections on. I urge all my colleagues to bring their amendments to the floor. We are trying to move this bill forward. We are trying to get agreement on a lot of the amendments, and we are working feverishly on several amendments that we hope we can get agreements on. Those Senators who wish to speak or offer amendments, I hope they will bring them to the floor.

We do have the vote on the underlying Dorgan amendment at 12:30 p.m. and we will be looking forward to having several stacked votes later in the afternoon.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 1265, AS MODIFIED

Mr. LOTT. Mr. President, I rise to speak in opposition to the Dorgan-Thurmond amendment that would put the Department of Justice into the middle of this telecommunications entry question. This issue really is being pushed primarily by the Department of Justice but, of course, a number of long distance companies are very much interested in it, and they are asking that the Justice Department be given a decisionmaking role in the process of reviewing applications for the Bell company entry into the long distance telephone service.

A grant of that type of authority to the Justice Department, in my opinion, is unprecedented. It goes far beyond the historical responsibility of Justice. It is a significant expansion of the Department's current authority under the MFJ, and it raises constitutional questions of due process and separation of powers. In short, I think it is a bad idea.

Who among us thinks that after all the other things that we have put in this telecommunications bill that we should have one more extremely high hurdle, and that is the Antitrust Division of the Justice Department, which would clearly complicate and certainly delay the very delicately balanced

entry arrangement that is included in this bill, and that is the purpose of the amendment. It is one more dilatory hurdle that should not be included.

The Antitrust Division of the Justice Department has one duty, and that is to enforce the antitrust laws, primarily the Sherman and Clayton Acts. It has never had a decisionmaking role in connection with regulated industries. The Department has always been required to initiate a lawsuit in the event it concluded that the antitrust laws had been violated. It has no power to disapprove transactions or issue orders on its own.

While the U.S. district court has used the Department of Justice to review requests for waivers of the MFJ, the Department has no independent decisionmaking authority. That authority remains with the courts. In transportation, in energy, in financial services and other regulated businesses, Congress has delegated decisionmaking authority for approval of transactions that could have competitive implications with the agency of expertise; in this case, the FCC.

The Congress has typically directed the agency to consider factors broader than simply the impact upon competition in making determinations. This approach has worked well. Why do we want to change it? It contrasts with the role Justice seeks with regard to telecommunications and the telephone entry. Telecommunications is not the only industrial sector to have a specific group at the Justice Department. It has antitrust activity in a transportation, energy and agriculture section, a computers and finance section, a foreign commerce section and a professions and intellectual property section.

The size of the staff devoted to some of these sections is roughly equivalent to that devoted to telecommunications and, I might add, it is too many in every case. If we want to do a favor to the American people, we should move half the lawyers in the Justice Department out of the city and put them out in the real world where they belong, working in the U.S. attorneys' offices fighting real crime. But, no, we have them piled up over in these various sections and, in many cases, in my opinion, not being helpful; in fact, being harmful.

If the Department has special expertise in telecommunications such that it should be given a decisionmaking role in the regulatory process, does it not also have a special expertise in other fields as well? Today's computer, financial services, transportation, energy and telecommunications industries are far too complex and too important to our Nation's economy to elevate antitrust policy above all other considerations in regulatory decisions.

The Justice Department, in requesting a decisionmaking role in reviewing Bell company applications, for entry into long distance telephone service, seeks to assume for itself the role currently performed by U.S. District